HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.W.P.No.13052 of 2006

Date of decision : 1.11.2006.

Udaya Bharti Public School .....Petitioner

versus

Central Board of Secondary Education & anr. .....Respondents

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : Ms.Savita Bhandari, Advocate for the petitioner.
Mr.Harsh Aggarwal, Advocate for the respondents.

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JUDGMENT

HEMANT GUPTA, J. (Oral)

The present writ petition has been filed by a school run by Lala Madho Ram Bhagwan Dass Charitable Society, challenging the pre-condition of Class XI examination, as mentioned at Sr.No.8 in the form required to be filled up by the School for Class XII examination of All India Senior School Certificate, 2007 and subsequent examinations, being irrational and Constitutionally invalid.

The present writ petition has been filed allegedly in public interest. It has been alleged that Rule 10.1 of the Examination Bye-laws of the Central Board of Secondary Education (hereinafter referred to as the Bye-laws) lays down the academic qualification for appearing in All India Senior School Certificate Examination (Class-XII). However, there are no pre-conditions specified in the Bye-laws to determine the procedure for qualification for Class XI examination. It is pointed out that respondent-Board has 8278 Schools affiliated throughout India and each school has its own standard for Class XI examination and, therefore, it is leading to

discrimination amongst the similarly placed students studying in different schools. With the said background, the petitioner has sought scraping of pre-condition in the form Annexure P-2, in which the condition at Sr. No.8 reads as under:-

> "8. that all the candidates mentioned overleaf have passed class XI in the subject and year noted against each and are eligible to appear in Senior School Certificate Examination 2006."

In reply, the Board has referred to Bye-law 7.5 pertaining to admission to Class XII. It has been pointed out that Bye-law 7.5 (i) ((b) contemplates that the candidates have to pass Class XI examination from a school affiliated to the Board. It has been pointed out that in a curriculum prescribed by the Bye-laws of the C.B.S.E, the course of studies (syllabus) has been prescribed for a complete course for All India Senior School Certificate Examination. The consolidated course is spread over two years. It has been further pointed out that Bye-law 7.5 contemplates that for admission in Class XII examination a student has to complete a regular course of study of Class XI and has to pass Class XI examination from a School affiliated to the Board. It is also pointed out that all the affiliated schools, throughout India, are following the standards as per the curriculum prescribed by the Examination Bye Laws of the Board.

Bye Law 7.5 reads as under:-

7.5 Admission to Class XII:

(i) No admission shall be taken in Class XII directly. Provided further that admission to Class XII in a school shall be open only to such a student who:

(a) has completed a regular course of study for Class XI and

(b) has passed Class XI examination from a school affiliated to this Board.

(ii) A student who has completed a regular course of study for Class XI and has passed Class XI Examination from an institution recognized by/affiliated to any recognised Board in India, other than this Board, can be admitted to a school only on the transfer of the parent(s) or shifting of their families from one place to another, after procuring from the student the marksheet and the Transfer Certificate duly countersigned by the Educational Authorities of the Board concerned. In case of such admissions, the schools would obtain post facto approval of the Board within one month of the admission of the student.

After hearing learned counsel for the parties and going through the Examination Bye-laws of the Board, I do not find that any of the Bye-laws suffers from any Constitutional invalidity which warrants interference by this Court much less in the public interest litigation filed by the petitioner. In fact the petitioner has admitted the students who have failed to qualify their XI examination from another affiliated school. Since, their admission was cancelled, the petitioner has filed the present writ petition. A separate writ petition has been filed by the students who have been found ineligible by the Board.

Bye-law 7.5 regulates the admission to Class XII, which contemplates that no admission shall be taken in Class XII directly and that admission to Class XII in a school shall be open only to such a student who; (i) has completed a regular course of study for class XI and (ii) has passed

Class XI examination from a school affiliated to the Board. The said Bye-laws provide complete procedure for admission to class XII students appearing in examination for All India Senior School Certificate Examination. The condition No.8 in the Form Annexure P-2 is in fact inherent in Bye-law 7.5.

Therefore, I do not find any ground to hold that any of the Bye-laws of the Board suffers from any illegality and irregularity.

The present writ petition is dismissed.

(HEMANT GUPTA)
JUDGE

November 1, 2006.
**mohinder*